

**CITY OF WESTMINSTER
CITY MANAGER EMPLOYMENT AGREEMENT**

This Agreement ("Agreement") is entered into on the 10th day of February 2021 ("Effective Date"), by and between the City of Westminster, a municipal corporation ("City"), and Marwan Youssef, an individual ("Employee"), and is made in reference to the following facts:

A. WHEREAS, the City Council desires to employ the Employee to serve as the City Manager; and

B. WHEREAS, it is the desire of the City and Employee to enter into an Employment Agreement concerning the terms and conditions of his employment as the City Manager; and

NOW THEREFORE, IT IS AGREED AS FOLLOWS:

1. EMPLOYMENT

- 1.1. During the term of this Agreement, Employee shall perform all of the functions and duties of the office of city manager, as currently in effect or as may be hereafter established by ordinance, resolution or action of the City Council.
- 1.2. All articles of the Westminster Municipal Code relating to the position of City Manager are incorporated herein by this reference as though fully set forth at length and made a part of this Agreement.
- 1.3. Employee shall not accept work from any other person or organization other than the City during the term of this Agreement, or thereafter as might conflict with his role as City Manager.

2. TERM OF EMPLOYMENT

The term of employment shall begin on February 12, 2021 at 1 p.m. Employee may terminate his employment at any time by providing thirty (30) days written notice to the City. City may terminate this Agreement at any time, subject to the requirements of Section 6 and 7 of this Agreement.

3. EVALUATION OF PERFORMANCE

Before February 12th of each year during the term of this Agreement, Employee shall calendar for the City Council an annual performance evaluation and compensation review of Employee.

4. SALARY AND BENEFITS

- 4.1. As City Manager, Employee shall receive an annual salary of \$234,372, payable in equal installments at the same time as other employees of the City are paid.

At no time will the salary of Employee be less than at least 5% above the next

highest paid position in the City (including any additional compensation the person in the next highest paid position receives). Notwithstanding the foregoing, any decision made by Employee that would result in an increase to the salary of another City employee (with the exception of annual step increases) shall be subject to the prior approval of the City Council, if that decision would result in an increase to Employee's own salary under this paragraph.

- 4.2. Employee shall be included in the same retirement plan provided to other Management/Administrative/Confidential Employees of the City. City participates in the California Public Employee Retirement System (CalPERS). Tier 2 (Classic Member hired on or after July 28, 2011): 2% @60 formula; Tier 3 PEPRA (New PERS Members hired on or after January 1, 2013): 2% @62 formula. The City agrees to pay the Employee's required contribution to such retirement plans as well as Medicare costs, under the same terms as the Management/Administrative/Confidential Employees of the City.
- 4.3. In lieu of a monthly automobile allowance, Employee shall be authorized to take his City assigned vehicle home on weekdays. This takes into consideration Employee's unique position, which requires him to be available during non-regular hours, and frequently requires him to travel to meetings throughout the county directly from his home.
- 4.4. Employee shall receive a monthly cell phone allowance of \$60. Employee shall use the cell phone for employment purposes; subject to such policies or regulations as shall then be in effect governing employee use of City cell phones and computers.
- 4.5. The City agrees to provide Employee with all of the same benefits, such as, but not limited to, health, dental, vision, executive leave, and life insurance coverage as is being provided to other Management/Administrative/Confidential Employees of the City, and no less than that provided for the highest rate paid into any flexible benefit plan provided to any other current city employee.
- 4.6. Employee shall be entitled to the same hours of paid vacation as Employee currently earns each year, for the duration of the term of this Agreement. Employee's sick leave shall accrue at the same rate as it does for other Management/Administrative/Confidential Employees with the City.

5. PROFESSIONAL DEVELOPMENT, DUES, SUBSCRIPTIONS AND EXPENSES

- 5.1. City hereby agrees to pay the travel and subsistence expenses of Employee for professional and official travel, meetings and occasions adequate to continue the professional development of Employee and to adequately pursue necessary official and other functions for City, including but not limited to, International City Management Association, League of California Cities, and other professional associations.
- 5.2. City agrees to pay for the professional dues and subscriptions of Employee necessary for continuation and full participation in national, regional, state and local

associations and organizations necessary and desirable for his continued professional participation, growth and advancement, and for the good of the City.

- 5.3. City also agrees to pay for reasonable travel and subsistence expenses of Employee for short courses, institutes and seminars that are necessary for his professional development and for the good of the City.
- 5.4. City recognizes that certain expenses of a non-personal and job-affiliated nature are incurred by Employee, and hereby agrees to pay said general expenses subject to submission of written receipts and documentation of such expenses.

6. TERMINATION AT PLEASURE

- 6.1. Subject to the terms and conditions in this Section, Employee's employment as City Manager may be terminated at the City Council's pleasure.
- 6.2. City Council reserves and has the right remove Employee from the position of City Manager at any time, without cause. If the City Council terminates Employee without cause, City shall be obligated to pay Employee severance equal to six (6) months of the total compensation employee receives from City under this Agreement. Any such payment may not exceed applicable statutory limits in Government Code section 53260 et seq. Employee shall receive said payment as a lump sum payment within thirty (30) days of employee's last day of employment with City.
- 6.3. Termination without cause may not be exercised by the City 60 days prior to any City Council election or 90 days following the certification of any City Council election. No severance will be required to be paid by City when the termination is initiated by Employee, or for a termination which is for cause pursuant to Section 7.
- 6.4. Documents. In the event of termination of this Agreement, all documents prepared by Employee in his performance of this Agreement shall be delivered to the City within ten (10) days of the effective date of the notice of termination, at no cost to City.
- 6.5. Nothing in this Section shall limit the City Council's right to terminate Employee for cause as provided in Section 7.

7. TERMINATION FOR CAUSE

This Agreement may also be terminated by the City Council for cause. After giving notice to Employee that this Agreement is terminated for cause, the City shall have no obligation to continue the employment of Employee or to provide compensation or benefits. Cause being those circumstances as defined herein.

The term "cause" shall mean the following:

- a) Conviction of, or plea of, guilty or nolo contendere to, any crime or offense (other

than minor traffic violations or similar offenses) which is likely to have a material adverse impact on the City or the Employee's reputation; or

- b) Proven failure of the Employee/ City Manager to observe or perform any of his duties and obligations, if that failure continues for a period of 30 business days from the date of his receipt of notice from the City Council specifying the acts or omissions deemed to amount to that failure; or
- c) Moral Turpitude which is defined herein as (1) conduct which is contrary to honesty, or, (2) conduct which constitutes a blatant violation of moral conduct standards or vileness. Moral turpitude acts are considered to be intentionally evil which makes the act criminal.

8. GENERAL PROVISIONS

- 8.1. Notices. Any notices to be given hereunder by either party to the other shall be in writing and may be transmitted by personal delivery or by first class mail, postage prepaid, certified mail, or by a nationally recognized overnight delivery service. Mailed notices shall be addressed to the parties as follows:

If sent by Employee to the City:

City Clerk
City of Westminster
8200 Westminster Blvd.
Westminster, CA 92683

If sent to Employee by the City:

Marwan Youssef



Notices delivered personally shall be deemed communicated as of the date of actual receipt; mailed notices shall be deemed communicated as of the date of postmark.

- 8.2. Entire Agreement. The text herein shall constitute the entire agreement between the parties. This Agreement supersedes any and all other agreements, whether oral or written, between the parties hereto with respect to the subject matter hereof and contains all of the covenants and agreements between the parties with respect to said matter, and each party to this Agreement acknowledges that no representations, inducements, promises or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not embodied herein, and that any other agreement or modification of this Agreement shall be effective only if executed in writing and signed by both the City and Employee.
- 8.3. Severability. If any provision, or any portion thereof, contained in this Agreement is held to be invalid or unenforceable, the remainder of this Agreement, or portion thereof, shall be deemed severed, shall not be affected, and shall remain in full force and effect.
- 8.4. Effect of Waiver. The failure of either party to insist on strict compliance with any of the terms, covenants, or conditions of this Agreement by the other party

shall not be deemed a waiver of that term, covenant, or condition, nor shall any waiver or relinquishment of any right or power at any one time or times be deemed a waiver or relinquishment of that right or power for all or any other times.

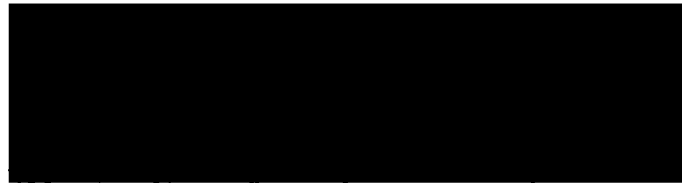
- 8.5. Best Efforts. So long as Employee is providing services to the City, Employee shall use his best efforts in performing his obligations and duties.
- 8.6. Lump Sum Payment. In the event of voluntary or involuntary separation, Employee shall be entitled to receive a lump sum payment in addition to other payments due him for the value of all accumulated vacation and sick leave in accordance with City policy.
- 8.7. Attorney's Fees. In the event any legal proceeding is instituted to enforce any term or provision of the Agreement, the prevailing party in said legal proceeding shall be entitled to recover reasonable attorneys' fees and costs from the opposing party in an amount determined by the Court to be reasonable.
- 8.8. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California, without giving effect to that body of laws pertaining to conflict of laws. In the event of any legal action to enforce or interpret this Agreement, the parties hereto agree that the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California.
- 8.9 Indemnification. City shall defend, save harmless and indemnify Employee against any tort, professional liability claim, and demand or other legal action, whether groundless or otherwise, arising out of an alleged act of omission occurring in the performance of Employee's duties as City Manager, unless such act or omission was an intentional tort or due to actual fraud, corruption, or actual malice. City shall not pay any punitive damages awarded as a result of any claim arising out of the performance of this Agreement, unless the Council makes the required findings in California Government Code section 825. In the event the City determines there is a conflict of interest between the City and Employee, and that independent counsel is required for Employee's defense, City shall select and pay the reasonable fees of such independent counsel. Employee shall cooperate fully in the investigation and defense of any civil action or proceeding.

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[Signatures to follow on next page]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the date and year first above written.

Dated: 3/9/2021



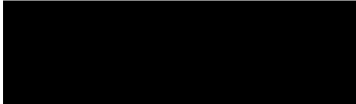
Marwan Youssef

Dated: 3/10/2021

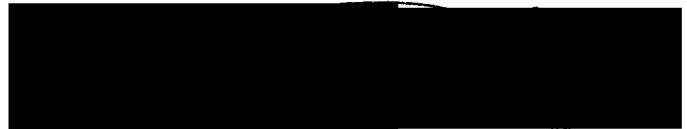


Tri Ta, Mayor

ATTEST:



Christine Cordon – City Clerk



Richard Jones, City Attorney